

APPROVED

**BOARD OF DENTISTRY
MINUTES OF REGULATORY/LEGISLATIVE COMMITTEE**

Wednesday, December 5, 2007

**Department of Health Professions
9960 Mayland Drive, 2nd Floor
Richmond, Virginia 23233
Board Room 1**

- CALL TO ORDER:** The meeting was called to order at 3:08 p.m.
- PRESIDING:** Edward P. Snyder, DDS, Chair
- MEMBERS PRESENT:** Jacqueline G. Pace, RDH
James D. Watkins, DDS
Paul N. Zimmet, DDS, Ex-officio
Jeffrey Levin, DDS, Ad Hoc Member
- MEMBERS ABSENT:** None
- STAFF PRESENT:** Sandra Reen, Executive Director
Elaine Yeatts, Senior Policy Analyst
Catherine Chappell, Administrative Staff Assistant
- COUNSEL PRESENT:** Howard Casway, Senior Assistant Attorney General
- QUORUM:** All members were present.
- PUBLIC COMMENT:** **Dr. Charles L. Cuttino III** spoke on behalf of the Virginia Dental Association. He expressed the VDA's concerns on the sedation and analgesia regulations. He requested clarification on the number of persons comprising the treatment team in regulation 18VAC60-20-108. He noted that questions had arisen as to whether the team was composed of two or three persons. Additionally, he requested clarification of the terms "administration" and "monitoring" with respect to the sedation and analgesia regulations.
- Ms. Yeatts responded that Dr. Cuttino's comments were not new or additional comments on the proposed regulations since he had submitted them in writing before the comment period closed on October 5, 2007. She noted, however, that additional public comment should not be taken on the regulations because the comment period had past.
- MINUTES:** Dr. Snyder asked if the Committee had reviewed the minutes of the June meeting. Dr. Watkins moved to accept the minutes of the meeting as written. The motion was seconded and passed.

**Virginia Board of Dentistry
Regulatory Legislative Committee Meeting
December 5, 2007**

**FINAL REGULATION
ON QUALIFICATIONS
FOR A DENTAL
HYGIENIST TO
ADMINISTER LOCAL
ANESTHESIA AND
NITROUS OXIDE**

Ms. Reen asked the Committee to review the one comment received with respect to the proposed regulations. She added that the Committee must decide if any changes are to be recommended for consideration by the Board before it adopts final regulations. She noted that any significant changes may require an additional public comment period.

Following discussion of Dr. Cuttino's concerns about anesthesia administration and monitoring, Ms. Pace moved to recommend to the Board acceptance of the proposed regulations, with an amendment to 18VAC60-20-108 C. 1. to delete the second and third sentences and replace them with "Once the administration of anxiolysis has begun, the dentist shall ensure that a person qualified in accordance with section 135 of this chapter is present with the patient at all times to determine the level of consciousness by continuous visual monitoring of the patient." The motion was seconded and carried.

**CONSIDERATION OF
FAST TRACK ACTION
FOR LAW EXAM CE
CREDIT**

Ms. Reen commented that the Law Exam was now in place and noted that the Board had previously contemplated granting continuing education credit for satisfactory completion of the examination.

Dr. Watkins moved to recommend acceptance of the Law Exam for continuing education credit. The motion was seconded and carried.

Ms. Yeatts noted that since the examination meets the requirements for content and sponsorship set out in the current regulations on continuing education that regulatory action was not needed. Following discussion with Board counsel, the Committee agreed with Ms. Yeatts.

Ms. Reen asked the Committee to recommend to the Board the number of continuing education hours to be assigned to the examination.

Following discussion, Dr. Watkins moved to assign three (3) hours of continuing education credit to the examination. The motion was seconded and carried.

Virginia Board of Dentistry
Regulatory Legislative Committee Meeting
December 5, 2007

**CONSIDERATION OF
FAST TRACK ACTION
FOR INSPECTION
FEES**

Ms. Reen advised that the inspection fee had been increased in conjunction with the recent fee changes but had not been incorporated into the regulations. She noted that adding the inspection fee in the regulations would allow reference to the current fee set out in regulations in Orders rather than specifying the fee amount. This would assure that the fee in effect at the time of the inspection is the amount collected.

Ms. Pace moved to recommend adoption of a fast track proposal to amend 18VAC60-20-30 to reflect the inspection fee of \$350. The motion was seconded and carried.

**CONSIDERATION OF
LANGUAGE ON
INFORMED CONSENT**

Dr. Levin expressed his reasons for adding a provision for informed consent as a component of the patient recordkeeping requirements of 18VAC60-20-15. There was discussion of when consent should be required, when it is implied, how it would be recorded and whether current regulations were adequate to protect patient interests.

Dr. Zimmet moved that the Committee recommend issuance of a guidance document on patient records based on current regulations. The motion was seconded. Mr. Casway suggested that the matter be tabled at this time and be made part of the recordkeeping discussion in the regulatory review process.

Ms. Yeatts noted that because a NOIRA had been issued the Committee would need to recommend an action or withdrawal of the proposal. Dr. Zimmet requested that his motion be withdrawn. Ms. Pace withdrew her second.

Dr. Watkins moved to address consideration of adding an informed consent provision in the regulatory review process and to recommend withdrawal of the NOIRA. The motion was seconded and passed.

**PERIODIC REVIEW OF
REGULATIONS:**

- **Review of comment received resulting from review notice.** Ms. Reen referred the Committee to the two comments received and noted that receipt of the comments would be acknowledged.. The Committee agreed to review the concerns about the anesthesia rules during the regulatory review process.

**Virginia Board of Dentistry
Regulatory Legislative Committee Meeting
December 5, 2007**

- **Review of licensing chart.** Ms. Reen stated that the Committee had requested that a chart be prepared to assist the review by showing provisions of law, the related regulations and discussion points in a side by side document. Ms. Reen presented the chart for licensing and stated that three additional charts were being developed on discipline, the practice of dentistry and the practice of dental hygiene. The Committee agreed that the charts would assist with the review.

Ms. Reen referred to the Board of Medicine's Standard of Professional Conduct in the agenda package as a reference for evaluating provisions that might be considered during the review.

- **Review Process.** Ms. Reen indicated that the last review was a very lengthy process. She suggested that giving interested parties the opportunity to work with the Committee before language was developed might speed up this review. She suggested that the Committee plan several meetings over the next six (6) months and that interested groups be invited to assist in identifying regulatory changes.

Dr. Snyder suggested that four (4) Board members participate in the review and that the charts be rotated from one member to the next to make note of discussion that should occur during the review. Dr. Zimmet asked Dr. Levin to serve as the fourth member of the Committee and Dr. Levin agreed. Dr. Snyder asked that the Committee work toward completion of the review of the four charts by the June Board meeting. It was agreed that Dr. Snyder would lead off the review of the chart on licensing then forward it to Dr. Watkins, who would forward it to Dr. Levin, who would forward it to Ms. Pace. Ms. Pace would send the member's input to Ms. Reen. Ms. Reen asked that she be copied on the e-mails sending the members' discussion at each transition. She also agreed to work to have the other charts finished by the end of January and to begin circulation of a chart as it was finished by sending it to Dr. Snyder.

**Virginia Board of Dentistry
Regulatory Legislative Committee Meeting
December 5, 2007**

The Committee agreed to meet in conjunction with the March Board meeting to complete its review of issues and set a goal of meeting with interested groups on May 2 so that an initial report on possible changes might be given at the June Board meeting.

**LEGISLATIVE
PROPOSAL
CIRCULATED BY
DR. CRABTREE:**

Ms. Reen presented Dr. Crabtree's proposed legislation to require the Board to publish two newsletters annually which she noted had been prepared by legislative services. She suggested that the Committee recommend that the Board take a position regarding this legislation. She further noted that several Board members had been contacted directly by Dr. Crabtree and questioned if any had responded to his inquiry. Dr. Snyder stated that to avoid the appearance of any impropriety that he would recuse himself from voting on this matter since he and Dr. Crabtree had discussed the proposal.

Dr. Watkins moved that the Committee recommend to the Board that it strongly oppose the newsletter legislation because:

1. The information that it seeks to have published is currently available online.
2. The Board does not have the resources to meet such requirements.
3. The Board has the priority to address the backlog of disciplinary cases as mandated by the Governor.

The motion was seconded and passed.

ADJOURNMENT

With all business concluded, the Committee adjourned at 6:40 p.m.

Edward P. Snyder, D.D.S., Chair

Sandra K. Reen, Executive Director

Date

Date